IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2495 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?

5 Whether it is to be circulated to the civil Judge?

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MANEKLAL BHAGWANDAS RESHAMWALA - Petitioner(s)

Versus

BHADRESH KISHOREBHAI PATEL & 14 - Respondent(s)

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Appearance :

MR AJ PATEL for Petitioner(s) : 1,
MR UTPAL M PANCHAL for Respondent No. 1 to 9.
MR SIRAJ GORI, ASSISTANT GOVERNMENT PLEADER for Respondent No. 10
MR RN SHAH for Respondent Nos. 11 to 15.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 22/02/2006

ORAL JUDGMENT

1. The issue pertains to revenue entries with respect to land bearing survey No. 448 of Village Sultanabad, Taluka – Choriyasi, District – Surat admeasuring 2 Hector

98 Are 46 Sq.Mts. The said land was purchased by the petitioner by registered sale deed dated 03.11.1982 from Dayabhai Fakirbhai. Revenue entry was made in this regard on 04.11.1982. The same was certified on 04.01.1983. It appears that other family members of Dayabhai preferred appeal against the said entry before the Deputy Collector in the year 1991. The Deputy Collector partially allowed the appeal and set aside the entry and ordered that proceedings under Section 84(C) of the Bombay Tenancy and Agricultural Land Acts (hereinafter to be referred to as “the said Act”, for short) be initiated. The petitioner preferred revision application against the order passed by the Deputy Collector. The Collector by his order dated 14.06.1993 set aside the order passed by the Deputy Collector, however, remanded the proceeding to the Mamlatdar for fresh consideration. The petitioner preferred further revision application before the State Government. The Secretary (Appeals), Revenue Department, Government of Gujarat rejected the revision application and confirmed the order passed by the Collector.

2. Learned Advocate Mr. A.J.Patel, submitted that the appeal came to be filed before the Deputy Collector many years after the entry was made on the basis of registered sale deed. He submitted that no order has been passed

against the petitioner under Section 84(C) of the said Act and that Civil Suit filed by the contesting respondents way back in the year 1982, also has not culminated into any order in their favour. In short, he submitted that sale-deed of the petitioner has not been set aside by any competent Court. He therefore, submitted that the entry made in favour of the petitioner could not be disturbed that too at the instance of persons who are not the owners of the land and who have filed an appeal nearly ten years after the entry was made.

3. On the other hand Mr. Shah appearing for contesting respondents submitted that the petitioner is not an agriculturist and owns no agricultural land even outside the radius of 8 Kms. That therefore, he could not validly purchase the land in question and the sale transaction is not valid. He further submitted that proceedings under Section 84(C) of the Act have been initiated against the petitioner. He therefore, submitted that the Collector as well as Secretary have merely remanded the proceedings to the Mamlatdar for fresh consideration for valid reasons and this Court therefore, should not interfere with the same.

4. Having heard the learned Advocates for the parties, I find that the proceedings need not be remanded and the

same would lead to further multiplicity of litigation and would lead to further protracted legal disputes. The petitioner who has purchased the land in question through registered sale-deed, was successful in getting his name entered into in the revenue records, such entry was made many years back. So for as the sale-deed is concerned, it has not been declared as illegal by any competent Court. It may be that the contesting respondents have filed Civil Suit questioning the said transaction and it may be that the proceedings under Section 84(C) of the Act have been instituted. So for, however, there is no order of the competent Court declaring sale-deed as illegal or directing the petitioner to evict from the land in question. In that view of the matter, the entry initially made by the Mamlatdar need not be disturbed at this stage, however, with a stipulation that the same will be subject to the outcome of the Civil Suit filed by the contesting respondents and any order that may be passed with respect to the subject matter land by competent Court. Such stipulation will have to be made in the revenue records to safeguard the interest of the respondents and other prospective buyers of the land.

5. In the result, the petition is partly allowed. The orders passed by the Deputy Collector, the Collector, Surat and the Secretary (Appeals), produced at Anneuxre –

C,B and A respectively are quashed. The entry made in favour of the petitioner on 04.11.1982 as confirmed on 04.01.1983 shall be retained with additional stipulation to be indicated in the revenue records, that such entry will be subject to the outcome of Civil Suit No. 1039 of 1982 filed before the Civil Judge (Junior Division), Surat and any other order that may be passed by the competent Court under Section 84(C) of the said Act in this regard.

5. With the above directions, the petition is disposed of. Rule is made absolute accordingly. No order as to costs.

[Akil Kureshi, J.]

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